

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

COMMITTEE FOR A FAIR AND BALANCED MAP, et al.,
Plaintiffs,
vs.
ILLINOIS STATE BOARD OF ELECTIONS, et al.,
Defendants

Case No.
1:11-cv-05065

The deposition of RICHARD L. ENGSTROM, Ph.D., called for examination pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions at 222 North LaSalle Street, Suite 300, Illinois, on the 25th day of October, 2011, at the hour of 9:20 a.m.

Reported by: BRENDA K. DUFEK, CSR
License No.: 084-003969

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WITNESS EXAMINATION
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By Ms. Zlotow 195

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1 APPEARANCES:
2 MAYER BROWN, LLP
3 BY: MS. LORI E. LIGHTFOOT
4 MR. THOMAS V. PANOFF
5 MR. MICHAEL D. FRISCH
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On behalf of the Plaintiffs;

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and

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On behalf of the Defendants.

16 ALSO PRESENT:
17 Allan J. Lichtman, Ph.D.
18
19
20
21
22
23
24

2

1 (Witness sworn.)
2 RICHARD L. ENGSTROM, Ph.D.,
3 called as a witness herein, having been first
4 duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. KASPER:

7 Q. Dr. Engstrom, thank you for coming. My
8 name is Mike Kasper. I'm going to ask you a
9 couple of questions throughout the day.

10 A. Just a couple?

11 Q. Just a couple.

12 It depends on what the answers are.

13 A. Okay.

14 Q. If you -- and we're going to cover
15 three areas generally; the reports that you
16 prepared, the analysis that you did, and some of
17 the past work that you've done. That's roughly
18 what it's going cover. Okay.

19 If I ask you a question that you don't
20 understand, please just correct me or stop me.
21 If you want to take a break, just take a break.
22 I presume you've been through this many times
23 before?

24 A. Yes.

4

1 (Pages 1 to 4)

<p>1 Q. So you know the drill. If there's 2 anything that is unclear, please let me know. 3 A. Yes. 4 MR. KASPER: At the beginning, I'm going to 5 pass around a copy of the reports. Why don't we 6 mark as Exhibit Number 1 the report that you 7 prepared in connection with this litigation. 8 Exhibit Number 2 is Dr. Lichtman's report. 9 Number 3 is Dr. Lichtman's report in response to 10 your report. 4 is your rebuttal report. 11 (Whereupon, Deposition Exhibit 12 Nos. 1-4 were marked for 13 identification.) 14 BY MR. KASPER: 15 Q. Dr. Engstrom, are you familiar with 16 each of these documents generally? 17 A. Yes. 18 Q. And you prepared two of them, and you 19 read both of Dr. Lichtman's reports? 20 A. Correct. 21 Q. In doing the analysis that you did in 22 this case, Dr. Engstrom, did you form an opinion 23 about whether or not voting is racially 24 polarized in CD 5 of the state-adopted plan?</p> <p style="text-align: right;">5</p>	<p>1 MS. LIGHTFOOT: Can you -- Mike, if you're 2 going to read from specific paragraphs, it would 3 help us if you tell us where you're referring 4 to. 5 MR. KASPER: Sure. 6 BY MR. KASPER: 7 Q. Page 9, in the second full paragraph, 8 the third sentence. Do you see that, Doctor, 9 with the sentence that begins, It no doubt 10 remains? 11 MS. LIGHTFOOT: Just for the point of 12 clarification, the word packed I don't believe 13 appears in that sentence. 14 BY MR. KASPER: 15 Q. Do you see the sentence? 16 A. The sentence -- 17 Q. It no doubt remains? 18 A. Yeah. 19 Q. All right. And then you go on to say, 20 quote, Maintaining a percentage of Latino voters 21 within it that is higher than necessary to 22 provide Latinos with a viable opportunity to 23 elect representatives of their choice, close 24 quote. Do you see that?</p> <p style="text-align: right;">7</p>
<p>1 A. Within CD 5? 2 Q. Yeah. 3 A. No, there wasn't. I didn't do CD 5 4 specifically. 5 Q. Did you form an opinion about whether 6 or not voting is racially polarized in any 7 state-adopted district outside of CD 4? 8 A. No, that was for the area of interest 9 from which districts were drawn. 10 Q. Okay. And did you do an analysis of 11 racially polarized voting in any district in the 12 state-adopted plan outside of CD 4? 13 A. No. 14 Q. Now, if I understand the report 15 correctly, in your first report on page 9, you 16 indicate that -- page 9. I'm sorry. 17 MS. LIGHTFOOT: This is, for the record, 18 Engstrom 1. 19 MR. KASPER: Yes, in Engstrom 1. 20 BY MR. KASPER: 21 Q. You indicate that your analysis has 22 determined that CD 4 is, quote, packed, 23 close-quote, and you described that as meaning 24 CD 4 contains, quote, I'm sorry --</p> <p style="text-align: right;">6</p>	<p>1 A. Yes, I do. 2 Q. And the next -- in the next sentence -- 3 I apologize. I mischaracterized it -- you used 4 the word packed. Is that a definition of packed 5 in the -- 6 A. Is that a definition of packed? 7 Q. Yes. Is that how you're describing 8 packed? 9 MS. LIGHTFOOT: Objection. 10 BY MR. KASPER: 11 Q. In other words -- 12 MS. LIGHTFOOT: Object to the form. 13 BY MR. KASPER: 14 Q. I'm sorry. Doctor, you have to answer 15 audibly. 16 A. Okay. 17 MS. LIGHTFOOT: Let me just be clear, unless 18 I instruct you not to answer, if I interpose an 19 objection, you should answer. 20 THE WITNESS: All right. 21 MS. LIGHTFOOT: Do you want to -- do you 22 understand the question? 23 THE WITNESS: Yes. 24 Yes, I think that functions as a</p> <p style="text-align: right;">8</p>

1 polarized probing analysis, and that's the --
2 the focus of the dilution inquiry because that
3 is the area from which Latino districts can be
4 drawn, at least two majority and a -- one
5 majority and a plurality can be drawn to replace
6 one majority.

7 Q. Okay. And is that the exclusive
8 geographic area in which you did your racial
9 polarization analysis?

10 A. In terms of racial polarization
11 analysis, yes.

12 Q. And is that -- did you do one analysis
13 incorporating that entire area?

14 A. Well, I don't know what you mean by
15 "one analysis."

16 Q. My question, did you separate a racial
17 polarization analysis in state-adopted CD 4?

18 A. No.

19 Q. Did you separate a racial polarization
20 analysis in Fair Plan districts 3 and 4?

21 A. No.

22 Q. So did you do a racial polarization
23 analysis in any district in either plan?

24 A. No. We've already established that.

17

1 BY MR. KASPER:

2 Q. Is the area of interest in your
3 analysis contiguous?

4 A. Yes.

5 Q. Okay. Is it every single precinct in
6 the three subsets that we talked about or did
7 you exclude non-Latino precincts?

8 A. No. It's in every precinct in that
9 area, if it's a county-wide election. All
10 right. Some of the polarized voting analysis
11 refers to county elections within that area of
12 interest.

13 Q. Right. I see.

14 A. Those would cover all precincts. Some
15 were from districted elections that would only
16 cover portions of the whole entire area.

17 Q. For example, if I understand that
18 correctly, you analyzed some judicial subcircuit
19 elections?

20 A. Correct.

21 Q. You would include only those precincts
22 within that subcircuit that are included within
23 the three geographic areas that we just talked
24 about?

19

1 Q. And so the area of interest is a
2 geographic area that is not reflected in either
3 plan?

4 MS. LIGHTFOOT: Object to the form,
5 mischaracterizes --

6 BY MR. KASPER:

7 Q. Is that right?

8 MS. LIGHTFOOT: -- the witnesses testimony.

9 THE WITNESS: I'm not -- not -- would you
10 repeat.

11 BY MR. KASPER:

12 Q. The area of interest -- what I'm trying
13 to do is picture in my head the area of interest
14 on a map, and if I did that, it would not be
15 reflected in either plan; is that right? It's
16 bigger than any district in either plan?

17 A. Well, the area would be in the map on
18 any plan.

19 Q. But it's not incorporated in any
20 particular district?

21 MS. LIGHTFOOT: Object to the form,
22 mischaracterizes the testimony.

23 THE WITNESS: The entire area does not
24 represent one district in any plan.

18

1 A. Within the area of interest?

2 Q. Yes.

3 A. That would be correct.

4 Q. And any precincts outside the area of
5 interest were excluded from your analysis?

6 A. Correct.

7 Q. Did you do an analysis of racial
8 polarization in state-adopted district CD 3?

9 A. No.

10 Q. Or state-adopted district CD 8?

11 A. No.

12 Q. Or state-adopted district CD 11?

13 A. No.

14 MR. KASPER: Okay. I'd like to direct your
15 attention -- this will be Exhibit Number 5.

16 (Whereupon, Deposition Exhibit
17 No. 5 was marked for
18 identification.)

19 BY MR. KASPER:

20 Q. This is a map. This is taken from
21 page 34 of Dr. Lichtman's rebuttal report to
22 you.

23 A. Page 34? I should ignore the page?

24 Q. The description of the text describing

20

<p>1 your area of interest, I presume you've seen the 2 state-adopted plan; is that right? 3 A. For the area. I mean, I've seen a map 4 of the whole thing, but my focus was on the area 5 of interest. 6 Q. And the same thing for the proposed 7 alternative Fair Plan? 8 A. Correct. 9 Q. Okay. Have you seen any other plans? 10 A. No. 11 MS. LIGHTFOOT: Object to the form. 12 BY MR. KASPER: 13 Q. In the state-adopted plan, CD 4 has a 14 Latino VAP in excess of 50 percent; is that 15 right? 16 A. In the adopted plan CD 4, yes, it does. 17 Q. And, likewise, in adopted -- I'm sorry. 18 Likewise in Fair CD 4, there is a 19 Latino VAP in excess of 50 percent, correct? 20 A. Correct. 21 Q. And there are no districts in any other 22 plan -- in either plan that has a Latino VAP in 23 excess of 50 percent; is that correct? 24 A. Correct.</p> <p style="text-align: right;">53</p>	<p>1 A. I don't recall the number. 2 Q. Okay. In the first, on pages 1 and 2 3 of -- the last sentence on page 1 that carries 4 over to page 2, that is, districts in which by 5 virtue of being in the majority, the group at 6 issue has an opportunity to elect a 7 representative of their choice. 8 A. Do you want me to read? 9 Q. Why don't you read that paragraph, the 10 last paragraph of page 1 on to page 2. 11 A. The whole -- 12 Q. Just the first -- 13 MS. LIGHTFOOT: It's short. 14 THE WITNESS: Beginning the application? 15 BY MR. KASPER: 16 Q. Yes, please. Yes, please. 17 MS. LIGHTFOOT: Read it to yourself. 18 THE WITNESS: Read it to myself? 19 BY MR. KASPER: 20 Q. Yes, please. 21 A. Okay. 22 Q. Okay. That paragraph describes what I 23 believe in your vernacular would constitutes a 24 majority/minority district; is that correct?</p> <p style="text-align: right;">55</p>
<p>1 MR. KASPER: Okay. I'm going to move on 2 to -- can we take a five-minute restroom break, 3 is that okay with you? 4 THE WITNESS: Okay. 5 (Whereupon, a short break was 6 taken.) 7 MR. KASPER: Dr. Engstrom, I'm going to show 8 you what is marked as Exhibit Number 6. 9 (Whereupon, Deposition Exhibit 10 No. 6 was marked for 11 identification.) 12 BY MR. KASPER: 13 Q. This is a copy of a research brief that 14 you published in May of this year entitled 15 Redistricting, colon, Influenced Districts, 16 Dash, a Note of Caution and a Better Measure. 17 Do you recall writing this? 18 A. Yeah, redistricting may be part of a 19 section, but anyway I wrote this paper. 20 Q. All right. 21 A. I'm not sure it's part of the title. 22 Q. In that article, you define four 23 different kinds of legislative districts; is 24 that correct?</p> <p style="text-align: right;">54</p>	<p>1 MS. LIGHTFOOT: Object to the form. It 2 speaks for itself. 3 THE WITNESS: I don't know about my 4 vernacular here. 5 BY MR. KASPER: 6 Q. No, just in the trade so to say. 7 MS. LIGHTFOOT: Same objections. 8 THE WITNESS: Say it again. 9 BY MR. KASPER: 10 Q. Does this paragraph describe a 11 majority/minority district? 12 A. Well, a protected minority constitutes 13 a majority of the voting age population. 14 Q. And because it constitutes a majority 15 of the voting age population, it, therefore, has 16 an opportunity to elect a representative of 17 their choice including one from their own group? 18 A. Well, that's the focus of the way the 19 protections have been applied. 20 Q. Okay. And you understand a majority to 21 be majority of the voting age population? 22 A. That's what it says. 23 Q. Okay. On page 14 of your initial 24 report, the conclusion section in the first</p> <p style="text-align: right;">56</p>

1 MR. PANOFF: Object to form, foundation, and
2 asked and answered.
3 THE WITNESS: I don't recall if I've seen it.
4 BY MR. KASPER:
5 Q. Okay.
6 A. I don't know.
7 Q. This is a printout of every precinct in
8 Cook County?
9 A. Okay.
10 Q. Did this play any role in your analysis
11 in preparing either of your reports?
12 MR. PANOFF: Object to form, foundation,
13 asked and answered.
14 THE WITNESS: Every precinct in Cook County?
15 BY MR. KASPER:
16 Q. Yes.
17 A. It's possible that this -- what this --
18 what this document is is that it's a data file.
19 It's possible I received one with every county,
20 every precinct in the county, but that wouldn't
21 be -- I mean, I would have reduced it to
22 precincts in the area at interest in terms of my
23 analysis.
24 Q. All right. And if you used this

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1 document, would you have any way indicated which
2 precincts are within your area of interest?
3 MR. PANOFF: Object to the form and
4 foundation and to the extent that it calls for
5 any speculation.
6 THE WITNESS: I had the document reduced to
7 the precincts in the area of interest.
8 BY MR. KASPER:
9 Q. Okay. Then do you know why this --
10 A. The data file was reduced to the
11 precincts in the area of interest.
12 Q. Then do you know why this document was
13 given to us as a product of your work?
14 MR. PANOFF: Object to form, foundation, and
15 to the extent that it calls for speculation.
16 THE WITNESS: I don't know why any particular
17 document was sent to you in discovery. It may
18 have been -- I might have had one of these to
19 begin with. I don't know.
20 MR. KASPER: All right. And I'm going to
21 mark what is 13.
22 (Whereupon, Deposition Exhibit
23 No. 13 was marked for
24 identification.)

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1 BY MR. KASPER:
2 Q. Would you take a second to look at that
3 document.
4 A. Okay.
5 Q. Have you ever seen this document
6 before?
7 A. I do not know.
8 Q. Okay. You see on the top of the upper
9 right-hand column, see the name Ramon,
10 R-a-m-o-n, Ocasio, III, O-c-a-s-i-o? Do you see
11 that?
12 A. Yes.
13 Q. Do you recognize the name Ocasio as one
14 of the elections you studied?
15 A. He was a candidate -- or she. I'm
16 sorry. But this person was.
17 Q. He.
18 A. There was an Ocasio in one of the
19 elections I studied, yes.
20 Q. And is this, in fact, the precincts
21 from the election that Ocasio was involved in?
22 MR. PANOFF: Object to form and foundation.
23 THE WITNESS: I do not know.
24

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1 BY MR. KASPER:
2 Q. Okay.
3 A. Just from looking at this, I can't
4 tell.
5 Q. Is there any way to determine which of
6 these precincts are located in your area of
7 interest?
8 A. It's not determined on this document.
9 Q. Okay.
10 A. But I mean, would there be a way to
11 if -- yes, I think there would be a way to
12 determine that.
13 Q. Okay. Did you determine that? You
14 must have to include only those precincts in
15 your analysis?
16 A. I said only those precincts in my
17 analysis. I did not determine which precincts
18 fell within that area.
19 Q. Do you recall what you did with the
20 split precincts regarding this election?
21 MR. PANOFF: Object to form, asked and
22 answered.
23 THE WITNESS: I don't recall exactly. I
24 remember being told that they've been

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<p>1 accommodated, but exactly how, I don't recall. 2 BY MR. KASPER: 3 Q. Can you -- do you know -- you say you 4 were told. By whom, do you recall? 5 A. I believe Edward Marshall. 6 Q. Edward Marshall, okay. 7 And is that who you received all this 8 data from? 9 A. He's -- 10 MR. PANOFF: Object to the form. 11 THE WITNESS: Either directly or indirectly. 12 BY MR. KASPER: 13 Q. What does that mean? 14 A. Well, some of the times I think 15 Mr. Marshall sent me things directly, sometimes 16 it may have gone through the law office. 17 MR. PANOFF: And, Dr. Engstrom, I would just 18 caution you, to the extent that you would 19 divulge any attorney/client communications, 20 instruct you not to answer. But if you just 21 want to say whether an attorney produced 22 something or not, you can answer that. 23 THE WITNESS: Well, whatever the document -- 24 I believe Ed Marshall was the source.</p> <p style="text-align: right;">177</p>	<p>1 What about a precinct that is split? 2 Is it included up to the split, is it entirely 3 excluded, or is it entirely included? 4 MR. PANOFF: Are you talking about CD 4? 5 BY MR. KASPER: 6 Q. In the area of interest. 7 A. I don't -- I don't recall. 8 Q. Did you ever know and you don't recall 9 or did you -- were you ever aware? 10 MR. PANOFF: Object to the form. 11 THE WITNESS: I was informed that precinct 12 splits had been accommodated. That's my memory. 13 BY MR. KASPER: 14 Q. In which direction -- there's three 15 alternatives. It can either be incorporated up 16 to the split, it can be entirely included, or it 17 can be entirely excluded. Do you know which of 18 the three -- 19 A. Well, some people -- 20 MR. PANOFF: Object to the form. Let me get 21 the objections in first. 22 THE WITNESS: It can be up to the split -- 23 okay. No, I don't. It's my understanding that 24 it would entail the split, but I don't recall</p> <p style="text-align: right;">179</p>
<p>1 BY MR. KASPER: 2 Q. I see. Okay. 3 So your area of interest, do you know 4 what exactly was included in your area of 5 interest? 6 MR. PANOFF: Object to the form. 7 THE WITNESS: Yes, I've defined it. 8 BY MR. KASPER: 9 Q. Okay. If a precinct is half inside 10 Fair CD 3, is it included or excluded from the 11 area of interest? 12 MR. PANOFF: Object to form and to the extent 13 it calls for speculation. 14 THE WITNESS: I don't recall. 15 BY MR. KASPER: 16 Q. So then how do you know the entirety of 17 what's included in the area of interest? 18 MR. PANOFF: Object to the form. 19 THE WITNESS: By what is in CD 4 in the 20 adopted plan, in CD 3 and CD 4 in the Fair Plan. 21 BY MR. KASPER: 22 Q. So any precinct that is entirely in 23 that area is included, that much we've 24 established. We don't need to recover.</p> <p style="text-align: right;">178</p>	<p>1 further. 2 BY MR. KASPER: 3 Q. Okay. Then how are we supposed to 4 figure it out? 5 MR. PANOFF: Object to the form to the extent 6 it calls for speculation. 7 THE WITNESS: Look at CD 3 and 4 and... 8 BY MR. KASPER: 9 Q. If we're trying to replicate what you 10 did, we have to know what you did with the 11 splits, right? 12 MR. PANOFF: Object to the form to the extent 13 it calls for speculation. 14 THE WITNESS: I don't recall what -- how that 15 was done. 16 MR. KASPER: Okay. Could I move on to 17 plaintiff's exhibit number -- Engstrom Number 18 14. 19 (Whereupon, Deposition Exhibit 20 No. 14 was marked for 21 identification.) 22 BY MR. KASPER: 23 Q. That document I presume you have seen? 24 A. Yes.</p> <p style="text-align: right;">180</p>

EXHIBIT NO. 13
10/25/11 BK

County	Precinct	VotesCast	EdwardJLechowicz	RoxanneLRochester	RamonOcasioIII
Cook	Wd 1 Pct 1	74	33	8	33
Cook	Wd 1 Pct 2	47	19	11	17
Cook	Wd 1 Pct 3	43	10	11	22
Cook	Wd 1 Pct 4	67	13	19	35
Cook	Wd 1 Pct 5	60	18	19	23
Cook	Wd 1 Pct 6	57	21	12	24
Cook	Wd 1 Pct 7	75	25	15	35
Cook	Wd 1 Pct 8	64	20	18	26
Cook	Wd 1 Pct 9	102	34	21	47
Cook	Wd 1 Pct 10	69	16	26	27
Cook	Wd 1 Pct 11	41	14	8	19
Cook	Wd 1 Pct 12	76	24	23	29
Cook	Wd 1 Pct 13	101	28	21	52
Cook	Wd 1 Pct 14	90	18	24	48
Cook	Wd 1 Pct 15	71	15	9	47
Cook	Wd 1 Pct 16	34	8	10	16
Cook	Wd 1 Pct 17	47	10	14	23
Cook	Wd 1 Pct 18	61	17	12	32
Cook	Wd 1 Pct 19	91	19	6	66
Cook	Wd 1 Pct 20	75	27	10	38
Cook	Wd 1 Pct 21	65	20	12	33
Cook	Wd 1 Pct 22	87	23	12	52
Cook	Wd 1 Pct 23	50	15	9	26
Cook	Wd 1 Pct 24	134	33	31	70
Cook	Wd 1 Pct 25	61	13	19	29
Cook	Wd 1 Pct 26	45	22	15	8
Cook	Wd 1 Pct 27	51	10	10	31
Cook	Wd 1 Pct 28	92	20	27	45
Cook	Wd 1 Pct 29	72	20	18	34
Cook	Wd 1 Pct 30	163	52	29	82
Cook	Wd 1 Pct 31	58	19	10	29
Cook	Wd 1 Pct 32	89	32	18	39
Cook	Wd 1 Pct 33	70	18	19	33
Cook	Wd 1 Pct 34	44	10	5	29
Cook	Wd 1 Pct 35	31	12	2	17
Cook	Wd 1 Pct 36	56	20	16	20
Cook	Wd 1 Pct 37	57	27	14	16
Cook	Wd 1 Pct 38	44	13	6	25
Cook	Wd 1 Pct 39	85	28	7	50
Cook	Wd 1 Pct 40	55	20	14	21
Cook	Wd 1 Pct 41	104	14	9	81
Cook	Wd 1 Pct 42	43	15	14	14
Cook	Wd 1 Pct 43	55	19	14	22
Cook	Wd 1 Pct 44	45	26	8	11
Cook	Wd 1 Pct 45	65	10	15	40
Cook	Wd 1 Pct 46	64	24	10	30
Cook	Wd 1 Pct 47	34	6	15	13
Cook	Wd 1 Pct 48	64	21	17	26
Cook	Wd 1 Pct 49	27	9	6	12
Cook	Wd 1 Pct 50	53	26	12	15
Cook	Wd 26 Pct 1	39	19	9	11
Cook	Wd 26 Pct 3	48	18	15	15
Cook	Wd 26 Pct 4	53	13	8	32
Cook	Wd 26 Pct 5	85	39	14	32

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County	Precinct	VotesCast	EdwardJLechowicz	RoxanneLRochester	RamonOcasioIII
Cook	Wd 26 Pct 6	69	21	5	43
Cook	Wd 26 Pct 7	37	16	6	15
Cook	Wd 26 Pct 8	56	17	16	23
Cook	Wd 26 Pct 9	41	14	6	21
Cook	Wd 26 Pct 10	44	9	11	24
Cook	Wd 26 Pct 11	56	16	9	31
Cook	Wd 26 Pct 12	44	8	10	26
Cook	Wd 26 Pct 13	74	19	8	47
Cook	Wd 26 Pct 14	51	7	10	34
Cook	Wd 26 Pct 15	47	14	4	29
Cook	Wd 26 Pct 16	55	19	4	32
Cook	Wd 26 Pct 18	44	11	6	27
Cook	Wd 26 Pct 19	91	30	23	38
Cook	Wd 26 Pct 20	80	19	16	45
Cook	Wd 26 Pct 21	57	14	16	27
Cook	Wd 26 Pct 22	44	13	11	20
Cook	Wd 26 Pct 23	56	17	3	36
Cook	Wd 26 Pct 24	44	19	8	17
Cook	Wd 26 Pct 25	30	5	8	17
Cook	Wd 26 Pct 26	58	13	9	36
Cook	Wd 26 Pct 27	65	22	5	38
Cook	Wd 26 Pct 28	18	3	2	13
Cook	Wd 26 Pct 29	50	19	9	22
Cook	Wd 26 Pct 30	37	9	5	23
Cook	Wd 26 Pct 31	73	16	7	50
Cook	Wd 26 Pct 32	75	15	15	45
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Cook	Wd 26 Pct 44	33	10	8	15
Cook	Wd 26 Pct 45	64	12	17	35
Cook	Wd 26 Pct 46	43	14	11	18
Cook	Wd 26 Pct 47	47	13	10	24
Cook	Wd 26 Pct 48	74	21	13	40
Cook	Wd 26 Pct 49	49	16	10	23
Cook	Wd 26 Pct 50	32	15	6	11
Cook	Wd 26 Pct 51	67	21	12	34
Cook	Wd 26 Pct 52	17	10	3	4
Cook	Wd 26 Pct 53	30	13	4	13
Cook	Wd 26 Pct 54	59	13	12	34
Cook	Wd 26 Pct 55	36	14	6	16
Cook	Wd 26 Pct 56	58	16	13	29
Cook	Wd 26 Pct 57	48	9	13	26
Cook	Wd 26 Pct 58	43	8	10	25
Cook	Wd 26 Pct 59	84	19	33	32
Cook	Wd 26 Pct 60	57	9	12	36
Cook	Wd 26 Pct 61	35	13	3	19

County	Precinct	VotesCast	EdwardJLechowicz	RoxanneLRochester	RamonOcasioIII
Cook	Wd 26 Pct 62	78	26	10	42
Cook	Wd 26 Pct 63	22	4	2	16
Cook	Wd 27 Pct 4	73	31	17	25
Cook	Wd 27 Pct 10	164	82	63	19
Cook	Wd 27 Pct 11	104	57	35	12
Cook	Wd 27 Pct 13	50	18	16	16
Cook	Wd 27 Pct 15	24	2	2	20
Cook	Wd 27 Pct 18	47	16	30	1
Cook	Wd 27 Pct 27	53	1	31	21
Cook	Wd 27 Pct 30	70	15	26	29
Cook	Wd 27 Pct 32	74	26	32	16
Cook	Wd 27 Pct 35	64	31	17	16
Cook	Wd 27 Pct 38	57	20	15	22
Cook	Wd 27 Pct 41	78	31	30	17
Cook	Wd 27 Pct 53	44	18	19	7
Cook	Wd 27 Pct 54	46	17	19	10
Cook	Wd 27 Pct 56	103	24	60	19
Cook	Wd 29 Pct 7	10	1	2	7
Cook	Wd 30 Pct 4	61	27	10	24
Cook	Wd 30 Pct 5	44	14	5	25
Cook	Wd 30 Pct 19	50	24	9	17
Cook	Wd 30 Pct 20	60	20	5	35
Cook	Wd 30 Pct 21	91	30	12	49
Cook	Wd 30 Pct 22	82	21	14	47
Cook	Wd 30 Pct 23	70	22	13	35
Cook	Wd 30 Pct 24	81	37	7	37
Cook	Wd 30 Pct 26	49	11	9	29
Cook	Wd 30 Pct 27	99	24	14	61
Cook	Wd 30 Pct 29	35	8	6	21
Cook	Wd 30 Pct 31	57	14	9	34
Cook	Wd 30 Pct 32	29	10	12	7
Cook	Wd 30 Pct 33	74	22	8	44
Cook	Wd 30 Pct 35	89	44	9	36
Cook	Wd 30 Pct 40	72	31	6	35
Cook	Wd 30 Pct 41	81	30	9	42
Cook	Wd 31 Pct 1	42	22	6	14
Cook	Wd 31 Pct 2	58	19	8	31
Cook	Wd 31 Pct 4	67	32	12	23
Cook	Wd 31 Pct 5	82	35	13	34
Cook	Wd 31 Pct 6	73	24	14	35
Cook	Wd 31 Pct 7	64	13	9	42
Cook	Wd 31 Pct 9	12	5	4	3
Cook	Wd 31 Pct 10	33	19	3	11
Cook	Wd 31 Pct 11	37	16	7	14
Cook	Wd 31 Pct 12	77	30	11	36
Cook	Wd 31 Pct 13	49	11	10	28
Cook	Wd 31 Pct 14	43	14	5	24
Cook	Wd 31 Pct 17	65	26	8	31
Cook	Wd 31 Pct 18	49	28	3	18
Cook	Wd 31 Pct 19	74	43	5	26
Cook	Wd 31 Pct 20	58	18	10	30
Cook	Wd 31 Pct 21	83	28	14	41
Cook	Wd 31 Pct 22	47	14	10	23
Cook	Wd 31 Pct 23	43	21	2	20

County	Precinct	VotesCast	EdwardJLechowicz	RoxanneLRochester	RamonOcasioII
Cook	Wd 31 Pct 24	64	17	5	42
Cook	Wd 31 Pct 25	80	27	7	46
Cook	Wd 31 Pct 27	70	27	12	31
Cook	Wd 31 Pct 28	64	25	10	29
Cook	Wd 31 Pct 30	75	41	11	23
Cook	Wd 31 Pct 31	84	39	15	30
Cook	Wd 31 Pct 32	83	31	14	38
Cook	Wd 31 Pct 33	60	24	11	25
Cook	Wd 31 Pct 34	49	12	5	32
Cook	Wd 31 Pct 35	62	44	4	14
Cook	Wd 31 Pct 36	106	48	13	45
Cook	Wd 31 Pct 37	67	20	12	35
Cook	Wd 31 Pct 39	47	13	8	26
Cook	Wd 31 Pct 40	51	22	6	23
Cook	Wd 31 Pct 41	59	33	4	22
Cook	Wd 31 Pct 42	84	34	13	37
Cook	Wd 31 Pct 44	58	27	6	25
Cook	Wd 31 Pct 46	70	36	10	24
Cook	Wd 31 Pct 47	95	52	9	34
Cook	Wd 31 Pct 48	64	29	12	23
Cook	Wd 31 Pct 49	46	22	7	17
Cook	Wd 31 Pct 50	64	26	10	28
Cook	Wd 31 Pct 51	55	24	7	24
Cook	Wd 32 Pct 1	90	40	21	29
Cook	Wd 32 Pct 2	89	15	20	54
Cook	Wd 32 Pct 3	73	34	10	29
Cook	Wd 32 Pct 4	118	52	24	42
Cook	Wd 32 Pct 5	66	29	14	23
Cook	Wd 32 Pct 6	95	63	12	20
Cook	Wd 32 Pct 9	74	23	19	32
Cook	Wd 32 Pct 11	60	30	9	21
Cook	Wd 32 Pct 12	69	21	13	35
Cook	Wd 32 Pct 14	82	40	13	29
Cook	Wd 32 Pct 15	41	15	16	10
Cook	Wd 32 Pct 16	104	60	15	29
Cook	Wd 32 Pct 17	72	44	14	14
Cook	Wd 32 Pct 19	52	20	13	19
Cook	Wd 32 Pct 20	81	42	22	17
Cook	Wd 32 Pct 24	64	26	17	21
Cook	Wd 32 Pct 26	82	50	16	16
Cook	Wd 32 Pct 27	32	16	7	9
Cook	Wd 32 Pct 28	73	31	22	20
Cook	Wd 32 Pct 29	90	39	29	22
Cook	Wd 32 Pct 30	55	17	13	25
Cook	Wd 32 Pct 31	103	37	22	44
Cook	Wd 32 Pct 33	74	30	15	29
Cook	Wd 32 Pct 34	105	50	18	37
Cook	Wd 32 Pct 35	129	76	29	24
Cook	Wd 32 Pct 36	84	20	32	32
Cook	Wd 32 Pct 40	84	28	28	28
Cook	Wd 32 Pct 41	92	35	21	36
Cook	Wd 32 Pct 42	95	33	31	31
Cook	Wd 32 Pct 45	85	37	21	27
Cook	Wd 32 Pct 46	58	37	12	9

County	Precinct	VotesCast	EdwardJLechowicz	RoxanneLRochester	RamonOcasioIII
Cook	Wd 32 Pct 52	46	22	12	12
Cook	Wd 33 Pct 1	137	74	21	42
Cook	Wd 33 Pct 2	155	76	37	42
Cook	Wd 33 Pct 3	138	65	24	49
Cook	Wd 33 Pct 4	131	70	20	41
Cook	Wd 33 Pct 6	179	109	29	41
Cook	Wd 33 Pct 7	237	71	44	122
Cook	Wd 33 Pct 8	111	49	23	39
Cook	Wd 33 Pct 10	235	164	37	34
Cook	Wd 33 Pct 11	152	81	23	48
Cook	Wd 33 Pct 12	203	125	32	46
Cook	Wd 33 Pct 13	209	113	38	58
Cook	Wd 33 Pct 15	129	55	32	42
Cook	Wd 33 Pct 16	130	59	28	43
Cook	Wd 33 Pct 17	186	95	40	51
Cook	Wd 33 Pct 19	165	83	27	55
Cook	Wd 33 Pct 20	134	71	18	45
Cook	Wd 33 Pct 21	177	87	37	53
Cook	Wd 33 Pct 22	230	146	29	55
Cook	Wd 33 Pct 23	151	71	34	46
Cook	Wd 33 Pct 24	215	55	61	99
Cook	Wd 33 Pct 25	170	63	49	58
Cook	Wd 33 Pct 26	114	44	21	49
Cook	Wd 33 Pct 27	81	35	15	31
Cook	Wd 35 Pct 1	94	25	20	49
Cook	Wd 35 Pct 2	88	26	11	51
Cook	Wd 35 Pct 3	62	12	18	32
Cook	Wd 35 Pct 4	121	43	20	58
Cook	Wd 35 Pct 5	105	27	16	62
Cook	Wd 35 Pct 6	115	41	12	62
Cook	Wd 35 Pct 7	123	23	27	73
Cook	Wd 35 Pct 8	91	15	13	63
Cook	Wd 35 Pct 9	105	20	28	57
Cook	Wd 35 Pct 10	106	34	15	57
Cook	Wd 35 Pct 11	57	20	10	27
Cook	Wd 35 Pct 12	131	42	24	65
Cook	Wd 35 Pct 14	142	29	34	79
Cook	Wd 35 Pct 15	105	22	16	67
Cook	Wd 35 Pct 16	117	21	26	70
Cook	Wd 35 Pct 17	118	28	23	67
Cook	Wd 35 Pct 18	111	24	22	65
Cook	Wd 35 Pct 19	108	24	25	59
Cook	Wd 35 Pct 20	98	30	18	50
Cook	Wd 35 Pct 21	99	34	18	47
Cook	Wd 35 Pct 23	69	15	9	45
Cook	Wd 35 Pct 24	61	22	14	25
Cook	Wd 35 Pct 25	85	15	19	51
Cook	Wd 35 Pct 26	135	38	36	61
Cook	Wd 35 Pct 27	155	34	35	86
Cook	Wd 35 Pct 28	105	13	19	73
Cook	Wd 35 Pct 29	117	41	24	52
Cook	Wd 35 Pct 30	141	30	25	86
Cook	Wd 35 Pct 31	49	10	14	25
Cook	Wd 35 Pct 32	89	14	21	54

County	Precinct	VotesCast	EdwardJLechowicz	RoxanneLRochester	RamonOcasioIII
Cook	Wd 35 Pct 34	105	20	25	60
Cook	Wd 35 Pct 35	122	32	12	78
Cook	Wd 35 Pct 36	58	17	11	30
Cook	Wd 37 Pct 1	81	35	10	36
Cook	Wd 37 Pct 2	115	43	51	21
Cook	Wd 37 Pct 3	66	20	31	15
Cook	Wd 37 Pct 10	156	63	63	30
Cook	Wd 37 Pct 12	73	20	30	23
Cook	Wd 37 Pct 19	106	34	15	57
Cook	Wd 37 Pct 22	81	56	22	3
Cook	Wd 37 Pct 39	89	41	15	33
Cook	Wd 37 Pct 42	76	21	23	32
Cook	Wd 47 Pct 15	115	54	28	33
Cook	Wd 47 Pct 21	135	53	31	51
Cook	Wd 47 Pct 40	88	26	25	37

Allan Lichtman

October 20, 2011

1

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

COMMITTEE FOR A FAIR AND)	
BALANCED MAP, JUDY BIGGERT,)	
ROBERT J. GOLD, RANDY HULTGREN,)	No. 1:11-cv-05065
ADAM KINZINGER, DONALD)	
MANZULLO, PETER J. ROSKAM,)	
BOBBY SCHILLING, AARON SCHOCK,)	
JOHN M. SHIMKUS, JOE WALSH,)	
RALPH RANGEL, LOU SANDOVAL,)	
LUIS SANABRIA, MICHELLE)	
CABALLERO, EDMUND BREZINSKI,)	
and LAURA WAXWEILER,)	THE VIDEOTAPED
Plaintiffs,)	DEPOSITION OF
-vs-)	ALLAN LICHTMAN
ILLINOIS STATE BOARD OF)	OCTOBER 20, 2011
ELECTIONS, WILLIAM M.)	
McGUFFAGE, JESSE R. SMART,)	
BRYAN A. SCHNEIDER, BETTY J.)	
COFFRIN, HAROLD D. BYERS,)	
JUDITH C. RICE, CHARLES W.)	
SCHOLZ, and ERNEST L. GOWEN,)	
Defendants.)	



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October 20, 2011

8

1 but obviously answer the questions to the best of
2 your ability.

3 We talked briefly before we went on the
4 record that there may be a need for you to take some
5 breaks, that's absolutely fine. The only thing that
6 I would ask is that you not take a break while a
7 question is pending. Obviously, if you need to
8 confer with counsel before you can answer the
9 question, feel free to do so.

10 We will probably ordinarily go in hour
11 increments. We're all going to try to move as
12 expeditiously as possible here today. I understand
13 that you have a deadline at the end of the day, and
14 we'll try to get you out of here as quickly as
15 possible.

16 I think that's enough of the basics,
17 which you probably heard many, many, many times over
18 the course of your career.

19 Sir, you have in front of you --

20 MR. KASPER: Before we begin.

21 MS. LIGHTFOOT: Go ahead.

22 MR. KASPER: And I hate to interrupt you.

23 You talked about the three reports that
24 Dr. Lichtman did. In the interest of disclosure,



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1 based on the evidence -- or the disclosure that you
2 gave us yesterday, Dr. Lichtman intends to prepare
3 another report over the weekend, which we'll get to
4 you as soon as it's prepared, for reasons that he is
5 better equipped to explain than we lawyers are. But
6 it has to do with the disclosure that you gave us
7 yesterday involving the election results, which is
8 different from the one that you gave us before he
9 prepared his initial reports.

10 MS. LIGHTFOOT: You're talking about the
11 supplemental production that we provided in
12 connection with our expert's rebuttal report?

13 MR. KASPER: Correct.

14 MS. LIGHTFOOT: Well, we can talk about that.

15 MR. KASPER: That's fine.

16 BY MS. LIGHTFOOT:

17 Q. Why don't we just talk about that now.

18 I take it, sir, that you have
19 prepared -- you prepared a new report over the
20 course the weekend based on information --

21 MR. KASPER: No, he's going to.

22 BY MS. LIGHTFOOT:

23 Q. Oh, you're going to?

24 A. Let me explain. I think it's best that,



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1 you know, I explain it.

2 When I got Dr. Engstrom's initial report
3 he had talked about an area of interest that he was
4 looking at that encompassed the Adopted Plan
5 District 4 and the plaintiffs' plan District 3 and
6 4. What was unclear because he never explicitly
7 made a statement about this was when he analyzed his
8 elections did he analyze elections for jurisdictions
9 or districts that touched upon or encompassed what
10 he called his area of interest or did he take from
11 within those elections only that part that was
12 absolutely co-terminus with his area of interest.
13 That was absolutely unclear from the language that
14 he used in his report.

15 So what does an expert do? An expert
16 goes to the tables. It's always the tables that
17 count. And one looks at the tables. The tables
18 were simply labeled, for example, countywide
19 elections, citywide elections, and then there were a
20 label district elections. There was no indication
21 whatsoever that he had picked and chosen particular
22 parts of the county --

23 Q. Doctor, I hate to interrupt you, but I
24 think if we could get to the point of what the scope



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October 20, 2011

11

1 of your new --

2 A. I'm about to get there.

3 Q. Okay. That would be helpful.

4 Obviously we don't necessarily -- we do
5 not agree with your characterization of
6 Dr. Engstrom's reports, but --

7 A. I understand.

8 Q. So maybe if we could move beyond the
9 speech and get to the --

10 A. I'm about to get past this.

11 Q. That would be helpful.

12 A. My next two points are real simple.

13 So you go to the tables and I said there
14 is no indication that he picked up a piece. And, of
15 course, the proof of the pudding is always in the
16 disclosure. And I looked at the disclosure, and I
17 have it right here in front of me, you can look at
18 it if you like, it's too big to print out, but it's
19 on my printout. This is the original disclosure for
20 one of the elections he looked at and you can see it
21 has every single countywide precinct, and I was
22 assured that this was what Dr. Engstrom relied on.
23 Indeed, in his report he said, you know, look at the
24 disclosure, you know, even more important than what



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October 20, 2011

12

1 I say in my report.

2 Q. You know what --

3 A. Then yesterday --

4 Q. Hold on one second. Hold on one second.

5 A. Yeah.

6 Q. I'm happy for you to tell me what the
7 scope of your new report is, but what I'm not
8 intending to do, particularly given that you've
9 asked for us to get you out of here by the end of
10 the day, is to allow you to give a 15-minute
11 speech --

12 A. I will finish in two minutes.

13 Q. -- about critiquing --

14 A. I'm not critiquing anything.

15 Q. You are, but that's okay. But I'm going
16 to ask you now for the second time tell me what the
17 new scope of your report is so we can get that on
18 the record and move forward.

19 A. All right. When I got the new
20 disclosure for the first time late yesterday
21 afternoon, it was totally different. It was in
22 spreadsheet form and it was not all of the
23 precincts, it was just a small piece of the
24 precincts --



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October 20, 2011

13

1 Q. I'm losing my patience with you, Doctor.

2 A. -- that Dr. Engstrom had relied on. So
3 the actual analysis he did was totally different
4 from what I had relied on from the original
5 disclosure --

6 Q. Stop.

7 A. -- which means --

8 Q. Stop. Stop. Please. Okay. Now I've
9 asked you three time just to tell me in simple words
10 what the scope of your new report is.

11 Hold on. What you've given us for the
12 last now almost three, four, five minutes, I've lost
13 count, is a nice speech and critique that completely
14 is misleading as to what Professor Engstrom's
15 initial report said what the underlying data was,
16 and I don't appreciate this, sir.

17 So here's what we're going to do. We're
18 going -- I'm going to go and I'm going to ask you
19 the questions that I was normally going to ask you.
20 I'm going to have a discussion off the record with
21 your counsel and perhaps he can give me a short
22 synopsis of what the new scope is since you --

23 MR. KASPER: That's fine.

24



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ALLAN LICHTMAN

November 2, 2011

<p>134</p> <p>IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION</p> <p>COMMITTEE FOR A FAIR AND) BALANCED MAP, JUDY BIGGERT,) ROBERT J. DOLD, RANDY HULTGREN,) No. 1:11-cv-05065 ADAM KINZINGER, DONALD) MANZULLO, PETER J. ROSKAM,) BOBBY SCHILLING, AARON SCHOCK,) JOHN M. SHIMKUS, JOE WALSH,) RALPH RANGEL, LOU SANDOVAL,) LUIS SANABRIA, MICHELLE) CABALLERO, EDMUND BREZINSKI,) and LAURA WAXWEILER,) CONTINUED</p> <p>Plaintiffs,) DEPOSITION OF -vs-) ALLAN LICHTMAN</p> <p>ILLINOIS STATE BOARD OF) NOVEMBER 2, 2011 ELECTIONS, WILLIAM M.) McGUFFAGE, JESSE R. SMART,) 11:47 a.m. BRYAN A. SCHNEIDER, BETTY J.) COFFRIN, HAROLD D. BYERS,) JUDITH C. RICE, CHARLES W.) SCHOLZ, and ERNEST L. GOWEN,) Defendants.)</p>	<p>136</p> <p>1 ALSO PRESENT: 2 MR. JOSEPH ELSEY, Videographer, 3 Esquire Deposition Solutions. 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 REPORTED BY: ANNE E. FOGARTY, CSR No. 84-3870. 23 24</p>
<p>135</p> <p>1 The videotaped deposition of ALLAN 2 LICHTMAN resumed pursuant to adjournment at 3 Suite 3200, 71 South Wacker Drive, Chicago, 4 Illinois. 5 6 PRESENT: 7 MAYER BROWN LLP, 8 (71 South Wacker Drive, Suite 3200, 9 Chicago, Illinois 60606-4637, 10 312-782-0600), by: 11 MS. LORI E. LIGHTFOOT, 12 llightfoot@mayerbrown.com, and 13 MR. MICHAEL D. FRISCH, 14 mfrisch@mayerbrown.com, 15 appeared on behalf of the Plaintiffs; 16 17 FLETCHER O'BRIEN KASPER & NOTTAGE, PC, 18 (222 North LaSalle Street, Suite 300, 19 Chicago, Illinois 60601, 20 312-704-3292), by: 21 MR. MICHAEL J. KASPER, 22 mjkasper60@mac.com, 23 appeared on behalf of the Defendants. 24</p>	<p>137</p> <p>1 (WHEREUPON, certain documents were 2 marked Lichtman Deposition Exhibits 3 Nos. 18 and 19, for identification, as 4 of 11/02/2011.) 5 THE VIDEOGRAPHER: Good morning. We are going 6 on the video record at 11:47 a.m. 7 This is Tape 1 to the continued 8 videotaped deposition of Allan Lichtman in the 9 matter of Committee For a Fair and Balanced Map, 10 et al., versus Illinois State Board of Elections, 11 et al., being heard before the U.S. District Court 12 for the Northern District of Illinois, Eastern 13 Division, case number 1:11-cv-05065. This 14 deposition is being held at 71 South Wacker Drive, 15 Chicago, Illinois, on November 2, 2011. 16 My name is Joseph Elsey and I'm the 17 videographer. The court reporter is Anne Fogarty. 18 Counsel, will you please introduce 19 yourselves and affiliations and then we can proceed. 20 MR. FRISCH: Michael Frisch for the 21 plaintiffs. 22 MS. LIGHTFOOT: Lori Lightfoot on behalf of 23 the plaintiff. 24 MR. KASPER: Michael Kasper for the</p>



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ALLAN LICHTMAN

November 2, 2011

<p>266</p> <p>1 ethnicity are one of the bases by which communities 2 are formed in this country.</p> <p>3 Q. Doctor, Ms. Lightfoot was asking you 4 some questions about the landslide victory 5 threshold. Do you remember that from your prior 6 scholarship?</p> <p>7 A. I do.</p> <p>8 Q. And in an area with mixed race, say 9 Latinos and white, where both races prefer the same 10 candidate, is it more likely that the preferred 11 candidate would reach that landslide threshold?</p> <p>12 MS. LIGHTFOOT: Object to the form, 13 foundation.</p> <p>14 BY THE WITNESS:</p> <p>15 A. Yes, reach or exceed. And, in fact, I 16 talked about that in my supplemental report where I 17 said, you know, the elections that are less 18 competitive are those where the various racial 19 groups come together and unite behind a candidate of 20 choice.</p> <p>21 BY MR. KASPER:</p> <p>22 Q. Okay. And there was also some questions 23 regarding the protection of incumbents. Do you 24 recall that?</p>	<p>268</p> <p>1 A. I have.</p> <p>2 Q. And what is that opinion?</p> <p>3 A. That race was not the predominant 4 factor.</p> <p>5 Q. Okay. And there was some discussion 6 about the ecological inference method. Are you 7 familiar with that method?</p> <p>8 A. I am.</p> <p>9 Q. And does that method apply a method of 10 bounds standard as well?</p> <p>11 A. Yes. In fact, I can directly quote from 12 Dr. Engstrom's initial report. Footnote 4, Page 5. 13 "The EI procedure further incorporates the method of 14 bounds in the analysis which precludes group 15 estimates in exceeding real world limits such as 16 estimates of a group support for a candidate or 17 group of candidates being over 100 percent or below 18 0 percent as happens with ER."</p> <p>19 Q. Okay. And, Dr. Lichtman, you were 20 present at Dr. Engstrom's deposition. Do you recall 21 discussion regarding the analysis of split precincts 22 in his area of interest?</p> <p>23 A. I do.</p> <p>24 Q. And do you recall when I asked him how</p>
<p>267</p> <p>1 A. I do.</p> <p>2 Q. And are you aware of whether or not it's 3 possible to protect all the incumbents equally in 4 this current redistricting plan?</p> <p>5 MS. LIGHTFOOT: Object to the form, 6 foundation.</p> <p>7 BY THE WITNESS:</p> <p>8 A. I don't see how you can when you lose a 9 district. You got to make -- you got to make 10 choices.</p> <p>11 BY MR. KASPER:</p> <p>12 Q. What do you mean by that?</p> <p>13 A. That is, Illinois went down a district 14 as a result of the post-census reapportionment. So 15 when you're reducing the number of districts, that 16 means choices have to be made among incumbents. And 17 in my experience even when you don't lose a district 18 often choices have to be made because of the need to 19 redistribute population. And I noticed here in 20 Illinois lots of districts needed readjustments of 21 population.</p> <p>22 Q. Doctor, have you formed an opinion about 23 whether or not race was a predominant factor in the 24 drawing of any district in the Adopted Plan?</p>	<p>269</p> <p>1 split precincts were handled he answered that they 2 were accommodated in some way? Do you recall that?</p> <p>3 A. I recall.</p> <p>4 MS. LIGHTFOOT: Object to the form, 5 foundation.</p> <p>6 BY THE WITNESS:</p> <p>7 A. I recall his answers on that very well.</p> <p>8 BY MR. KASPER:</p> <p>9 Q. Have you done any further analysis of 10 the splint precincts in Dr. Engstrom's analysis?</p> <p>11 A. I have.</p> <p>12 Q. And do you have any comments regarding 13 that?</p> <p>14 A. I do.</p> <p>15 I was able to do an analysis of the 16 split precincts only after his data disclosures and 17 only after I sat in on his deposition, which I 18 believe was about a week ago. And my very clear 19 recollection is he said the split precincts were 20 accommodated in the data that he received and that 21 he did not do any further adjustments for split 22 precincts.</p> <p>23 And there are very significant problems 24 with how the split precincts were accommodated, or I</p>



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ALLAN LICHTMAN

November 2, 2011

<p style="text-align: right;">270</p> <p>1 would rather say not accommodated in the data 2 received by Dr. Engstrom, that created an extremely 3 inaccurate database either for his so-called 4 reconstituted elections or for his EI analysis. 5 If I may explain? 6 Q. Okay. Hold on. Let them catch up. 7 MS. LIGHTFOOT: I think it's appropriate to 8 ask a question. Him giving a multi-paragraph 9 narrative answer isn't appropriate. 10 BY MR. KASPER: 11 Q. All right. Can you explain? 12 MS. LIGHTFOOT: And move to strike the last 13 answer. 14 BY THE WITNESS: 15 A. Yes, I can explain. 16 Precincts are not usually split evenly 17 between districts. And sometimes a precinct is 18 split such that its part in one district has zero 19 population and its part in another district has all 20 of the population. 21 BY MR. KASPER: 22 Q. What's an instance of that? 23 A. An instance of that would be there are 24 several precincts that are partly in plaintiffs'</p>	<p style="text-align: right;">272</p> <p>1 partially in CD 3 with zero population or very small 2 population, you would have to adjust your database 3 in terms of the number of votes cast in that 4 precinct. For example, if there is zero population, 5 then there could be no votes cast in that part of 6 the precinct; that is, for example, within 7 plaintiffs' RD 3. 8 One of the problems with Dr. Engstrom's 9 database is he made no such adjustments. Even when 10 there is zero population, say in plaintiffs' CD 3, 11 or a very small proportion of the population of the 12 precinct, say in plaintiffs' CD 3, his database 13 includes all the votes cast for all the candidates, 14 even though those votes could not possibly have been 15 cast in that part of the precinct that is within 16 plaintiffs' CD 3. 17 The same thing applies to plaintiffs' 18 CD 4 and to Adopted CD 4, the three districts within 19 his so-called area of interest. 20 This makes inaccurate all of his 21 so-called reconstituted elections. That is, when he 22 says, for example, Candidate Alvarez in the 2008 23 State's Attorney primary got a certain percentage in 24 plaintiffs' CD 3 or a certain percentage in</p>
<p style="text-align: right;">271</p> <p>1 CD 3 and partly in other districts in plaintiffs' 2 plan but that have no population within CD 3. 3 Now -- 4 Q. What would accommodate for that? What 5 would cause that? 6 A. Because it could be an industrial area, 7 it could be a park, it could be a pond with no 8 residents present. And it's not that uncommon. 9 That happens fairly frequently. 10 In addition, you could have a precinct 11 split such that, and this is also very common, a 12 relatively small proportion of the population, say 13 10, 15, 20, 30 people are in plaintiffs' CD 3 but 14 1,000 are in another district. 15 Q. When you say another district, do you 16 mean another district other than plaintiffs' CD 4? 17 A. CD 3. I'm talking about CD 3 at the 18 moment. 19 Q. Okay. 20 A. But this would apply to any district, 21 plaintiffs' CD 4 and Adopted CD 4. All three 22 districts in Dr. Engstrom's area of interest would 23 be affected by this. 24 So if we have a precinct that is</p>	<p style="text-align: right;">273</p> <p>1 plaintiffs' CD 4 or a certain percentage in Adopted 2 CD 4, all of those are inaccurate because they 3 include those total votes cast in split precincts 4 where maybe zero population is in each of those 5 districts respectively, or a very small proportion, 6 or even half of it. It's still going to be 7 inaccurate. 8 MS. LIGHTFOOT: Counsel, with all due respect, 9 the Doctor has been going on for by my count at 10 least three minutes uninterrupted without a 11 question. And I think it's appropriate for him not 12 to give, as I said before, long narrative paragraphs 13 of testimony without any specific questions 14 interjecting. So I object to this long narrative 15 form. 16 MR. KASPER: Okay. We're just trying to help 17 you understand this. This is something -- 18 MS. LIGHTFOOT: Well, I appreciate it but I'd 19 rather that he have questions put to him and answer 20 questions. 21 BY MR. KASPER: 22 Q. Okay. Do you have further to say on 23 that subject? 24 A. Yes, I do.</p>



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ALLAN LICHTMAN

November 2, 2011

<p style="text-align: right;">274</p> <p>1 Q. Okay. Would you please say so.</p> <p>2 A. Thank you.</p> <p>3 A second problem that afflicts all of</p> <p>4 his reconstituted elections and makes them</p> <p>5 inaccurate is sometimes he'll double count a</p> <p>6 precinct. That is, he'll have the precinct entered</p> <p>7 twice within a split precinct, entered twice say</p> <p>8 within plaintiffs' CD 3, plaintiffs' CD 4 or Adopted</p> <p>9 CD 4, so he is double counting the votes for the</p> <p>10 candidates within that precinct.</p> <p>11 And all of these problems also afflict</p> <p>12 his EI analysis since these same databases are the</p> <p>13 basis for his EI analysis. And this explains why he</p> <p>14 threw out so many precincts, as many as 12 or</p> <p>15 13 percent in some instances, because he's dividing</p> <p>16 by those very small numbers. And, indeed, when you</p> <p>17 divide the votes cast in the whole precinct by some</p> <p>18 small segment of the precinct in the district,</p> <p>19 you're going to get over 100 percent.</p> <p>20 But even though you don't get over</p> <p>21 100 percent, and say you get 80 percent or</p> <p>22 50 percent, those numbers are going to be inaccurate</p> <p>23 because the numerator is based upon all the votes</p> <p>24 cast in that precinct and the denominator is based</p>	<p style="text-align: right;">276</p> <p>1 testimony as opinion testimony with respect to split</p> <p>2 precincts. He clearly had ample opportunity to</p> <p>3 provide, which he failed to provide and failed to</p> <p>4 disclose and provide any basis for us to be able to</p> <p>5 analyze whether he's right or whether he's wrong.</p> <p>6 And if he tries to testify, obviously, about this</p> <p>7 we're going to move ahead of time to prevent him</p> <p>8 from doing so.</p> <p>9 No further questions.</p> <p>10 MR. KASPER: Okay. Let's go.</p> <p>11 THE VIDEOGRAPHER: Going off the video record</p> <p>12 at 3:58 p.m. This is the end of Tape No. 4.</p> <p>13 FURTHER DEPONENT SAITH NAUGHT.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">275</p> <p>1 only on the voting age population in that piece of</p> <p>2 the precinct that is within the particular district</p> <p>3 that you're analyzing.</p> <p>4 So the database cannot be used</p> <p>5 accurately either for reconstituted elections or for</p> <p>6 EI, or for that any matter for any electoral</p> <p>7 analysis.</p> <p>8 MS. LIGHTFOOT: Move to strike.</p> <p>9 MR. KASPER: Okay. No further questions.</p> <p>10 MS. LIGHTFOOT: I have a couple follow-up</p> <p>11 questions.</p> <p>12 FURTHER EXAMINATION</p> <p>13 BY MS. LIGHTFOOT:</p> <p>14 Q. All this testimony that you just</p> <p>15 provided regarding the split precinct, is any of</p> <p>16 that reflected in the supplemental report that you</p> <p>17 provided on October 27, 2011?</p> <p>18 A. I didn't have time because I didn't</p> <p>19 have --</p> <p>20 Q. That's not my question, Doctor.</p> <p>21 A. Okay.</p> <p>22 Q. Is it in there or is it not in there?</p> <p>23 A. It's not in there.</p> <p>24 MS. LIGHTFOOT: So I move to strike all that</p>	<p style="text-align: right;">277</p> <p>1 STATE OF ILLINOIS)</p> <p>2) SS:</p> <p>3 COUNTY OF COOK)</p> <p>4 I, ANNE E. FOGARTY, a Notary Public</p> <p>5 within and for the County of Cook, State of</p> <p>6 Illinois, and a Certified Shorthand Reporter, CSR</p> <p>7 No. 84-3870, of said state, do hereby certify:</p> <p>8 That previous to the commencement of the</p> <p>9 examination of the witness, the witness was duly</p> <p>10 sworn to testify the whole truth concerning the</p> <p>11 matters herein;</p> <p>12 That the foregoing deposition transcript</p> <p>13 was reported stenographically by me, was thereafter</p> <p>14 reduced to typewriting under my personal direction</p> <p>15 and constitutes a true record of the testimony given</p> <p>16 and the proceedings had;</p> <p>17 That the said deposition was taken</p> <p>18 before me at the time and place specified;</p> <p>19 That I am not a relative or employee or</p> <p>20 attorney or counsel, nor a relative or employee of</p> <p>21 such attorney or counsel for any of the parties</p> <p>22 hereto, nor interested directly or indirectly in the</p> <p>23 outcome of this action.</p> <p>24 IN WITNESS WHEREOF, I do hereunto set my</p>



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GERALD R. WEBSTER

October 21, 2011

1

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

COMMITTEE FOR A FAIR AND)
BALANCED MAP, JUDY BIGGERT,)
ROBERT J. GOLD, RANDY HULTGREN,) No. 1-11-cv-05065
ADAM KINZINGER, DONALD)
MANZULLO, PETER J. ROSKAM,)
BOBBY SCHILLING, AARON SCHOCK,)
JOHN M. SHIMKUS, JOE WALSH,)
RALPH RANGEL, LOU SANDOVAL,)
LUIS SANABRIA, MICHELLE)
CABALLERO, EDMUND BREZINSKI,)
and LAURA WAXWEILER,)
Plaintiffs,)

-vs-

ILLINOIS STATE BOARD OF) DEPOSITION OF
ELECTIONS, WILLIAM M.) GERALD R. WEBSTER
McGUFFAGE, JESSE R. SMART,) OCTOBER 21, 2011
BRYAN A. SCHNEIDER, BETTY J.)
COFFRIN, HAROLD D. BYERS,)
JUDITH C. RICE, CHARLES W.)
SCHOLZ, and ERNEST L. GOWEN,)
Defendants.)



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October 21, 2011

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1 correct?

2 A. Yes.

3 Q. Do you have any findings with respect to
4 the rebuttal report of Dr. Engstrom?

5 A. I have two concerns in my review of that
6 report.

7 Q. And could you discuss those concerns?

8 A. If I could have a copy of the report, I
9 can point out the page numbers.

10 MR. HOLZRICHTER: I have one copy. I will not
11 mark it as an exhibit. Actually, no, I don't have
12 it. Of Engstrom's rebuttal? I don't have it.

13 MS. ZLOTOW: All right. I have a clean copy,
14 if I can find it.

15 I'm going to mark this as Defendants'
16 Exhibit 1.

17 (WHEREUPON, a certain document was
18 marked Defendants' Deposition
19 Exhibit No. 1, for identification,
20 as of October 21, 2011.)

21 (WHEREUPON, the document was
22 tendered to the witness.)

23 BY MS. ZLOTOW:

24 Q. Are you familiar with this document?



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October 21, 2011

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1 A. Yes, ma'am. I reviewed it yesterday.

2 Q. And what is it?

3 A. It is "Expert Report in Response to
4 Dr. Lichtman's Reports by Richard L. Engstrom."

5 Q. And you stated a moment ago that you had
6 a couple of findings with respect to this report.
7 Could you describe what those are?

8 A. The first is on page 24 in the first
9 partial paragraph. Dr. Engstrom writes, "The
10 Polsby-Popper perimeter compactness score for this
11 latest version of this district, .05, continues to
12 reflect the wandering character of the earmuff
13 configuration. It is just .02 points above the same
14 score for the initial 1991 version of the earmuff."

15 In fact, that's incorrect. The 2011
16 district is .03 above the original version in 1991.

17 Q. And you said that there was another
18 finding that you had with respect to this report?

19 A. Yes, ma'am.

20 Q. Could you just describe what that is?
21 And if you want to identify for the record the page
22 number.

23 A. Page 20, the last paragraph.
24 Dr. Engstrom writes, "As a result of that error, I



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October 21, 2011

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1 must revise what I had said about the Reock score
2 for CD4 in the Adopted Plan. I stated in that
3 report that 'The Reock measure ranks CD4 as the
4 least compact district not only in the Adopted Plan,
5 but in either of the plans."

6 This should read, "The Reock measure
7 ranked CD4 as the 13th worst score in the Adopted
8 Plan. It also ties the second worst in the
9 plaintiffs' plan."

10 I think, first, that Dr. Engstrom means
11 this is the 13th best, not the 13th worst, because
12 it would actually be the sixth worst -- or yes,
13 right, so there's a flip-flop in the
14 characterization. And I also think it sort of
15 mischaracterizes the score on the Reock test for CD4
16 which is .30.

17 Q. And how do you think it mischaracterizes
18 that score?

19 A. The mean for the plan as a whole is .32,
20 so the score of .30 is very close to the mean, and,
21 in fact, 10 of the 18 districts range from plus or
22 minus of .02, from .28 to .32. So after all is said
23 and done, the Reock score for Congressional
24 District 4 is very much in line with the other



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October 21, 2011

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1 scores in the plan and the mean of -- of the plan.

2 Q. I also wanted to show you another
3 document.

4 MS. ZLOTOW: We're marking this as
5 Defendants' -- actually, I have to make sure it's
6 the right one. Yes. I'm going to mark it as
7 Defendants' Exhibit 2.

8 (WHEREUPON, a certain document was
9 marked Defendants' Deposition
10 Exhibit No. 2, for identification,
11 as of October 21, 2011.)

12 (WHEREUPON, the document was
13 tendered to the witness.)

14 BY MS. ZLOTOW:

15 Q. If you want to take a moment to review
16 this document.

17 Are you familiar with what's been marked
18 as Defendants' Exhibit 2?

19 A. Yes, I reviewed this yesterday. It's
20 entitled CongDem. It was produced on 10/9/2011, and
21 it is a series of compactness scores for the Adopted
22 Plan.

23 Q. Do you know who created this document?

24 A. It's my understanding that Dr. Engstrom



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October 21, 2011

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1 itself lower than most other districts that you've
2 looked at with only a handful of examples that we
3 were discussing earlier?

4 MS. ZLOTOW: Same objection as to
5 mischaracterization.

6 BY THE WITNESS:

7 A. Well, there definitely is a handful of
8 districts that are less than that that I've looked
9 at.

10 MR. HOLZRICHTER: Okay.

11 MS. ZLOTOW: I have additional questions.

12 MR. HOLZRICHTER: Please go ahead.

13 FURTHER EXAMINATION

14 BY MS. ZLOTOW:

15 Q. Dr. Webster, given the findings in your
16 report that the compactness scores for CD4 on the
17 dispersion and perimeter measures are at or above
18 the Pildes and Niemi suggested cutoff levels for low
19 compactness, and given your finding that CD4's level
20 of geographic compactness increased in the Adopted
21 Plan on both measures when comparing the district to
22 its predecessors in the 1991 plan and 2001 benchmark
23 plan, given those findings, are you able to conclude
24 whether or not Congressional District 4 in the



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October 21, 2011

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1 Adopted Plan is reasonably compact?

2 A. Using the Pildes and Niemi benchmarks,
3 yes. I mean that -- one is at the cutoff point and
4 the other is substantially above the cutoff point.
5 Therefore, based on that numeric analysis, the
6 answer is yes.

7 Q. Yes what?

8 A. That CD4 is reasonably compact.

9 FURTHER EXAMINATION

10 BY MR. HOLZRICHTER:

11 Q. I'm sorry, the -- when you say "at,"
12 we've been dancing around what the word "at" means.
13 I still don't understand what "at the cutoff" means.

14 MR. COLE: Well, let her --

15 MR. HOLZRICHTER: Oh, I'm sorry.

16 MR. COLE: -- finish her questions.

17 MR. HOLZRICHTER: Were you -- oh, I thought you
18 were --

19 MS. ZLOTOW: I think --

20 MR. COLE: Oh, are you done?

21 MS. ZLOTOW: I think I'm done.

22 MR. COLE: Oh, okay.

23 MR. HOLZRICHTER: Yeah. Sorry.
24



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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

COMMITTEE FOR A FAIR AND)
BALANCED MAP, JUDY)
BIGGERT, ROBERT J. DOLD,)
RANDY HULTGREN, ADAM)
KINZINGER, DONALD)
MANZULLO, PETER J. ROSKAM,)
BOBBY SCHILLING, AARON)
SCHOCK, JOHN M. SHIMKUS,)
JOE WALSH, RALPH RANGEL,)
LOU SANDOVAL, LUIS SANABRIA,)
MICHELLE CABALLERO,)
EDMUND BREZINSKI, and)
LAURA WAXWEILER,)

Plaintiffs,)

vs.)

ILLINOIS STATE BOARD OF)
ELECTIONS, WILLIAM A.)
MCGUFFAGE, JESSE R.)
SMART, BRYAN A. SCHNEIDER,)
BETTY J. COFFRIN,)
HAROLD D. BYERS,)
JUDITH C. RICE,)
CHARLES W. SCHOLZ, and)
ERNEST L. GOWEN,)

Defendants.)

No. 1:11-cv-5065

RECEIVED
OCT 07 2011
POWER ROGERS & SMITH, P.C.

The videotaped deposition of
CONGRESSMAN JOHN M. SHIMKUS, called by the
Defendants, for examination, taken pursuant to
notice, taken before CARYL L. HARDY, a Notary
Public within and for the County of Cook, State of

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1 form, foundation, compound, and -- go ahead. If
 2 you can understand, answer it.
 3 BY THE WITNESS:
 4 A. We -- I enjoined in this lawsuit based
 5 upon the analysis done by our attorneys. I made no
 6 statements until after the lawsuit was filed.
 7 MR. BRUCE: Listen to my question. I
 8 didn't designate before or after, Congressman. If
 9 you'd listen to my question, I think that might
 10 help you answer it. Go ahead. I'll have her read
 11 it back to you. If we can read it back to the
 12 Congressman, please...
 13 (Record read.)
 14 MS. LIGHTFOOT: Same objections.
 15 BY THE WITNESS:
 16 A. Yes.
 17 BY MR. BRUCE:
 18 Q. And who did you say that to?
 19 A. To numerous people who asked me about the
 20 litigation and the lawsuit.
 21 Q. And what is the basis of your statement
 22 that there should have been two Hispanic seats and
 23 because there was not, that gives you the ability
 24 to have this lawsuit heard in federal court?

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1 MS. LIGHTFOOT: Congressman, if the sole
 2 basis of your information is information that has
 3 been provided to you by counsel in the context of a
 4 confidential communication, then I'm going to
 5 instruct you not to answer. However, if you have
 6 other independent bases beyond that, then feel free
 7 to answer the question.
 8 BY THE WITNESS:
 9 A. And my sole information is based upon
 10 information provided by counsel.
 11 MR. BRUCE: Okay. And again, I think I
 12 stated my position in the past. I just want to
 13 make my record on this.
 14 To the extent that Congressman Shimkus or
 15 any other Congressman is going to talk about the
 16 unfairness of this map based upon information from
 17 their counsel and that they intend to testify that
 18 it were to be presented on those points, I believe
 19 I should have a right to probe and cross-examine
 20 them on that point.
 21 And so in other words, I think it's
 22 supremely unfair and improper for the Plaintiffs in
 23 this case to call witnesses who will testify to
 24 various aspects of the unfairness of the map while

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1 at the same time I'm precluded to depose those
 2 individuals on those points.
 3 MS. LIGHTFOOT: Nice speech, and we will
 4 take this on a question-by-question basis.
 5 MR. BRUCE: It wasn't a speech. It's a
 6 legal position that I'm taking.
 7 BY MR. BRUCE:
 8 Q. Sir, other than anything that your lawyers
 9 have told you, do you have any basis to believe
 10 that there should be two Hispanic seats?
 11 MS. LIGHTFOOT: Same admonishment and
 12 caution. If you have an independent basis, feel
 13 free to answer.
 14 BY THE WITNESS:
 15 A. The information I have, based upon the
 16 demographics, was based upon the lawsuit and
 17 attorney-client privilege.
 18 BY MR. BRUCE:
 19 Q. I understand that, and I'm trying to get
 20 to the next point. I'm just saying --
 21 A. And I'm reiterating that now.
 22 Q. Okay. You and I and your sole basis in
 23 your belief that there should be two Hispanic
 24 districts in this Congressional map is based upon

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1 information that you received from your counsel; is
 2 that true?
 3 A. That's true.
 4 Q. All right. Sir, I want to talk to you
 5 about some names of people and ask you if you know
 6 them personally -- and I'll just go through this
 7 quickly -- or do you know who they are.
 8 Representative Jim Durkin, do you know
 9 Representative Durkin?
 10 A. Yes.
 11 Q. And have you worked with him in the past?
 12 A. He ran for statewide office but not much.
 13 Q. Okay. Do you have any regular interaction
 14 with him?
 15 A. No.
 16 Q. Okay. Representative Chapin Rose, do you
 17 know him?
 18 A. Yes, I do.
 19 Q. And do you have regular interaction with
 20 him?
 21 A. No.
 22 Q. And representative Tim Schmitz, do you
 23 know him, S-c-h-m-i-t-z?
 24 A. I have -- I've met him.

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1 Q. Okay.
 2 A. I do know him.
 3 Q. Okay. And do you have any regular
 4 interaction with him?
 5 A. No.
 6 Q. Lastly, Representative Jill Tracy; do you
 7 know Representative Tracy?
 8 A. I do.
 9 MS. LIGHTFOOT: Could you -- I'm sorry.
 10 Could you repeat the first name?
 11 MR. BRUCE: Jill.
 12 MS. LIGHTFOOT: Okay. Sorry.
 13 THE WITNESS: Jill Tracy.
 14 BY MR. BRUCE:
 15 Q. Did you understand that those members of
 16 the Illinois House were a member of the Illinois
 17 House Redistricting Committee?
 18 A. No.
 19 Q. This is the first time you're learning of
 20 it?
 21 A. Yes.
 22 Q. All right. Did you ever at any time
 23 appear before any House Redistricting Committee
 24 yourself?

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1 A. No.
 2 Q. Did you understand that House
 3 Redistricting Committee meetings were held all over
 4 the state of Illinois?
 5 A. Yes.
 6 Q. Okay. And did you ever make any attempts
 7 to attend any of those committee hearings?
 8 A. No.
 9 Q. Did anyone on your behalf ever attempt to
 10 attend those committee hearings?
 11 A. I'm -- I'm not aware.
 12 Q. All right. Did you ever attempt to
 13 provide any input at any time to any of the House
 14 Redistricting Committee meetings?
 15 A. Not that I'm aware of.
 16 Q. You agree with me, sir, there's nothing
 17 that would have precluded you or anyone on your
 18 behalf to do so?
 19 MS. LIGHTFOOT: Object to the form,
 20 foundation. It mischaracterizes the rules of that
 21 committee.
 22 MR. BRUCE: You can go ahead and answer
 23 the question.
 24 THE WITNESS: And I need it restated,

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1 please.
 2 (Record read.)
 3 MS. LIGHTFOOT: Same objections.
 4 BY THE WITNESS:
 5 A. Yes.
 6 BY MR. BRUCE:
 7 Q. Similar line of questions with respect to
 8 the -- did you understand that there was a Senate
 9 Redistricting Committee? Did you know that or not?
 10 A. Yes.
 11 Q. And did you understand that the Senate
 12 Districting -- Redistricting Committee met and had
 13 meetings all over the state of Illinois?
 14 A. Yes.
 15 Q. And did you ever make any attempt to go to
 16 any of those committee meetings?
 17 A. No.
 18 Q. Did you understand that they were taking
 19 input from various interests in terms of
 20 information to form the making of the map?
 21 A. Yes.
 22 Q. And is -- Is there any reason that would
 23 have precluded you or any representative on your
 24 behalf from attending those Senate Redistricting

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1 Committee meetings?
 2 MS. LIGHTFOOT: Same objections; assumes
 3 facts not in evidence, foundation, mischaracterizes
 4 the rules of the committee.
 5 BY THE WITNESS:
 6 A. And the answer is no.
 7 BY MR. BRUCE:
 8 Q. Did you ever at any time go on the
 9 Illinois Redistricting Committee website?
 10 MS. LIGHTFOOT: Object to the form of the
 11 question? Are you asking if he went on the --
 12 MR. BRUCE: Online.
 13 MS. LIGHTFOOT: -- individual committees'
 14 websites?
 15 MR. BRUCE: Yeah.
 16 MS. LIGHTFOOT: Okay.
 17 BY THE WITNESS:
 18 A. I don't recall.
 19 BY MR. BRUCE:
 20 Q. All right. Did you know that there was a
 21 website for the redistricting committees that asked
 22 for input with respect to the maps?
 23 A. Yes.
 24 Q. And is there any -- you could have gone on

<p style="text-align: right;">Page 118</p> <p>1 there and put your input in about your concern</p> <p>2 about Madison and Bond County?</p> <p>3 A. Yes.</p> <p>4 Q. And you did not do so; is that correct?</p> <p>5 MS. LIGHTFOOT: Object to the form,</p> <p>6 foundation, assumes facts not in evidence.</p> <p>7 BY THE WITNESS:</p> <p>8 A. And I -- I did not.</p> <p>9 BY MR. BRUCE:</p> <p>10 Q. Okay. Any reason why not?</p> <p>11 A. Well, we only had -- we -- this thing</p> <p>12 happened on Friday and they were going to vote on</p> <p>13 Sunday.</p> <p>14 Q. Well, you had knowledge in the spring</p> <p>15 about what the districts were being considered, the</p> <p>16 lines; is that true?</p> <p>17 A. Not --</p> <p>18 MS. LIGHTFOOT: Object to the form,</p> <p>19 mischaracterizes his prior testimony.</p> <p>20 BY THE WITNESS:</p> <p>21 A. Not that -- not the Madison County/Bond</p> <p>22 debate. That's -- those are totally different --</p> <p>23 those are totally different map drawings.</p> <p>24</p>	<p style="text-align: right;">Page 120</p> <p>1 any of the counties that you represented in which</p> <p>2 the Congressional district divided the counties?</p> <p>3 A. Yes.</p> <p>4 MS. LIGHTFOOT: Object to the -- object to</p> <p>5 the form, relevance.</p> <p>6 BY MR. BRUCE:</p> <p>7 Q. Which -- which counties were those?</p> <p>8 A. Madison, Adams, Sangamon. I think that's</p> <p>9 it.</p> <p>10 Q. Okay. With respect to the</p> <p>11 19th Congressional District, when you represented</p> <p>12 that district, were there any counties which were</p> <p>13 divided?</p> <p>14 A. Well, I --</p> <p>15 MS. LIGHTFOOT: Object -- hold on. Object</p> <p>16 to the form, relevance.</p> <p>17 BY THE WITNESS:</p> <p>18 A. First of all, I still represent it, so</p> <p>19 it's --</p> <p>20 BY MR. BRUCE:</p> <p>21 Q. I misspoke. I think you understood my</p> <p>22 question, but I misspoke, so let me ask you again.</p> <p>23 With respect to the 19th Congressional</p> <p>24 District, are there any counties that are divided</p>
<p style="text-align: right;">Page 119</p> <p>1 BY MR. BRUCE:</p> <p>2 Q. When you represented the 19th Congressional</p> <p>3 District for years, were there any counties that</p> <p>4 were split?</p> <p>5 A. Yes.</p> <p>6 Q. Which ones?</p> <p>7 A. Madison, Adams, Sangamon. We're</p> <p>8 talking -- I'm getting the 20th and the 19th --</p> <p>9 I --</p> <p>10 Q. All right. Do you want to correct your</p> <p>11 answer?</p> <p>12 A. I do want to correct my answer.</p> <p>13 Q. Okay. Let's start at the beginning.</p> <p>14 A. With the 19th.</p> <p>15 Q. Okay.</p> <p>16 A. Which district?</p> <p>17 Q. Okay. Why don't we start at the</p> <p>18 beginning? Let's go chronologically.</p> <p>19 At some point in time, you first</p> <p>20 represented the 29th and then there was some</p> <p>21 redistricting and you represented the 19th?</p> <p>22 A. Yes.</p> <p>23 Q. When you represented the 20th Congressional</p> <p>24 District here in the state of Illinois, were there</p>	<p style="text-align: right;">Page 121</p> <p>1 by that Congressional district?</p> <p>2 MS. LIGHTFOOT: Objection; relevance.</p> <p>3 BY THE WITNESS:</p> <p>4 A. Yes.</p> <p>5 BY MR. BRUCE:</p> <p>6 Q. Which ones?</p> <p>7 MS. LIGHTFOOT: Objection; relevance.</p> <p>8 BY THE WITNESS:</p> <p>9 A. Madison, Jersey, Greene.</p> <p>10 BY MR. BRUCE:</p> <p>11 Q. I'm sorry. What was the last one?</p> <p>12 A. Greene.</p> <p>13 Q. Oh. Greene County?</p> <p>14 A. Yes.</p> <p>15 Sangamon, Dwight, Edwards, Saline,</p> <p>16 Williamson -- Williamson County. I think that's</p> <p>17 it.</p> <p>18 (Shimkus Deposition Exhibit No. 4</p> <p>19 marked for identification, 9-29-11.)</p> <p>20 BY MR. BRUCE:</p> <p>21 Q. And -- and I have included in the package</p> <p>22 of exhibits Exhibit Number 4, if you want to turn</p> <p>23 the page. And let me just establish, is that the</p> <p>24 current 19th Congressional District that you</p>

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1 represent?

2 MS. LIGHTFOOT: Object to the form.

3 BY THE WITNESS:

4 A. Yes.

5 BY MR. BRUCE:

6 Q. Congressman, at any time did you or anyone

7 on your behalf submit any maps or alternative maps

8 to any member of the Illinois legislature?

9 A. No.

10 Q. You could have done so had you chosen to

11 do so; is that true?

12 MS. LIGHTFOOT: Object to the form,

13 foundation, mischaracterizes the rules of the

14 separate redistricting committees.

15 BY THE WITNESS:

16 A. Yes.

17 BY MR. BRUCE:

18 Q. Okay. And certainly your lawyers were

19 involved in your representation regarding the

20 drawing of the map before the map was finalized; is

21 that true?

22 MS. LIGHTFOOT: Hold on. Object to the --

23 object to the form of the question. And given the

24 scope of the question, I'm going to object on

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1 privilege and instruct the witness not to answer.

2 He can answer as to when it was, but your

3 question -- the basis for my objection is your

4 question assumes content of what the scope of the

5 representation is now. That's the basis for my

6 objection.

7 MR. BRUCE: Yeah. I don't understand the

8 objection.

9 BY MR. BRUCE:

10 Q. Sir --

11 A. My --

12 Q. Go ahead.

13 A. I have -- I don't know. That's my answer.

14 Q. Okay. Well, I think you told me that you

15 already had lawyers at the time that you were

16 meeting with Congressman Costello in the initial

17 meeting; is that true?

18 A. My -- the answer is that the -- the -- the

19 Committee for a Fair and Balanced Map had hired

20 counsel.

21 Q. Okay. The Committee for a Fair and

22 Balanced Map had already retained counsel by the

23 time you had your initial meeting with Congressman

24 Costello; is that true?

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1 A. Yes.

2 Q. All right. And did those lawyers --

3 they're the same lawyers that are representing you

4 here today, right?

5 A. I think so.

6 Q. Right.

7 And you were communicating with those

8 lawyers as far back as when you initially met with

9 Congressman Costello; is that true?

10 A. I wasn't personally doing a lot of

11 communication with the attorneys.

12 Q. Okay. Was someone on your behalf

13 communicating with the lawyers that represented you

14 and the committee at the time that you met with

15 Congressman Costello for the first time regarding

16 the map?

17 A. Yes.

18 Q. Okay. And my question was, do you agree

19 with me that the lawyers for the committee or your

20 own lawyers could have submitted maps which were

21 different than the maps which were ultimately

22 adopted by the legislature in Springfield?

23 MS. LIGHTFOOT: Object to the form,

24 foundation.

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1 BY THE WITNESS:

2 A. Yes.

3 BY MR. BRUCE:

4 Q. And they did not do so, to your knowledge;

5 is that true?

6 MS. LIGHTFOOT: Object to the form,

7 foundation.

8 BY THE WITNESS:

9 A. I don't know.

10 BY MR. BRUCE:

11 Q. Okay. Have you ever seen a map that they

12 submitted to the Illinois legislature or any of its

13 committees?

14 MS. LIGHTFOOT: Object to the form,

15 foundation.

16 BY THE WITNESS:

17 A. I have not seen any map.

18 BY MR. BRUCE:

19 Q. Now, have you read the complaint that has

20 been filed by the committee in this case?

21 A. Yes.

22 Q. And was there any aspect of that complaint

23 that you read that you disagreed with?

24 A. No.

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1 Q. Okay. Now, have you ever seen a map which
 2 has proposed -- well, strike that.
 3 Is every member of the committee for a
 4 fair and balanced map a member of the Republican
 5 party?
 6 A. I don't know.
 7 Q. Well, in terms of the named Plaintiffs to
 8 the lawsuit, can you tell me, are those members all
 9 Republican?
 10 A. I don't know.
 11 (Shimkus Deposition Exhibit No. 2
 12 marked for identification, 9-29-11.)
 13 BY MR. BRUCE:
 14 Q. Well, let's look. If you look at
 15 Exhibit 2, I've attached the complaint, and
 16 there's a caption there on the first page. And
 17 just take a look at that, and can you tell me --
 18 A. This here?
 19 MS. LIGHTFOOT: This.
 20 BY MR. BRUCE:
 21 Q. -- whether or not any of those people are
 22 Democrats?
 23 A. Well, can I just tell you who I know are
 24 Republicans?

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1 Q. That would be fine.
 2 MS. LIGHTFOOT: No.
 3 THE WITNESS: No?
 4 MS. LIGHTFOOT: If he's amending his
 5 question, then you can.
 6 BY MR. BRUCE:
 7 Q. Yeah, yeah. I'm just trying to get you
 8 out of here, Congressman. Tell me what you know
 9 about the political affiliation of the parties to
 10 the lawsuit.
 11 A. Judy Biggert is a Republican. Bob Dold is
 12 a Republican. Randy Hultgren is a Republican.
 13 Adam Kinzinger is a Republican. Donald Manzullo is
 14 a Republican. Peter Roskam is a Republican. Bob
 15 Schilling is a Republican. Aaron Schock is a
 16 Republican. John Shimkus is a Republican. Joe
 17 Walsh is a Republican. I don't know Ralph Rangel.
 18 I don't know Lou Sandoval. I do not know Luis
 19 Sanabria. I don't know Michelle Caballero. I
 20 don't know Edmund Brezinski. And I do not know
 21 Laura Waxweiler.
 22 Q. And where did those people come from?
 23 A. I don't know.
 24 Q. And how did they get involved in the case?

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1 A. I don't know.
 2 Q. Have you ever seen a map that's been
 3 proposed by the committee and the Republican
 4 Congressmen?
 5 MS. LIGHTFOOT: Object to the -- to the
 6 form, vague.
 7 BY THE WITNESS:
 8 A. We --
 9 BY MR. BRUCE:
 10 Q. Do you understand my question?
 11 A. We -- I think -- we filed a map with the
 12 injunction.
 13 Q. Okay.
 14 A. And that is the map I've seen.
 15 Q. Okay. And have you seen the
 16 demographic -- is that map attached to your
 17 deposition as Exhibit Number 5?
 18 MS. LIGHTFOOT: I'm going to object to the
 19 form of the question because it mischaracterizes
 20 Exhibit Number 5.
 21 (Shimkus Deposition Exhibit No. 5
 22 marked for identification, 9-29-11.)
 23 BY MR. BRUCE:
 24 Q. Sir, I don't want to mischaracterize

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1 anything. Is that the map that you're referring to
 2 that was attached to the preliminary injunction?
 3 MS. LIGHTFOOT: The problem with your
 4 question, counsel, is there's a couple -- there's
 5 two -- at least two maps.
 6 MR. BRUCE: Well, all right.
 7 BY MR. BRUCE:
 8 Q. There's a map that somebody has
 9 conveniently termed the Fair Congressional on the
 10 right side. Do you see that?
 11 A. I do.
 12 Q. Okay. Who drew that map?
 13 MS. LIGHTFOOT: If -- objection. If the
 14 basis of your -- your basis for an answer to that
 15 question stems from information that was
 16 communicated to you by -- in the context of a
 17 privileged communication with counsel, then I'm
 18 going to instruct you not to answer. But if you
 19 otherwise have a different independent basis for
 20 being able to answer that question, feel free.
 21 BY THE WITNESS:
 22 A. I have no independent basis other than
 23 knowing what was provided based upon
 24 attorney-client privilege in the maps presented in

<p style="text-align: right;">Page 130</p> <p>1 the court case.</p> <p>2 BY MR. BRUCE:</p> <p>3 Q. So this map was given to you -- to you by</p> <p>4 your lawyers?</p> <p>5 MS. LIGHTFOOT: Object to the form and</p> <p>6 mischaracterizes his testimony, Mr. Bruce.</p> <p>7 BY MR. BRUCE:</p> <p>8 Q. Well, it's one way or the other, sir.</p> <p>9 MS. LIGHTFOOT: No.</p> <p>10 BY MR. BRUCE:</p> <p>11 Q. I want to know, where did the map come</p> <p>12 from? Did it come from your lawyers or someone</p> <p>13 else?</p> <p>14 MS. LIGHTFOOT: Object to the form, and I</p> <p>15 think you've asked that question now twice.</p> <p>16 MR. BRUCE: No, no, no, no, no. We're</p> <p>17 going to get into this, so we're going to get an</p> <p>18 answer to my question.</p> <p>19 MS. LIGHTFOOT: Fine. You're going to get</p> <p>20 an answer -- get an answer --</p> <p>21 MR. BRUCE: Yeah. We're going to get an</p> <p>22 answer, and we're going to suspend the deposition.</p> <p>23 BY MR. BRUCE:</p> <p>24 Q. Sir, did you get that map from your</p>	<p style="text-align: right;">Page 132</p> <p>1 of Exhibit 5. It says the Fair Congressional Map.</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. All right. And you told me that that was</p> <p>5 filed with your preliminary injunction that you're</p> <p>6 a party to; is that correct?</p> <p>7 A. I believe so, yes.</p> <p>8 Q. Okay. And I'm asking you, where did that</p> <p>9 map come from? Who gave you that map? Was it from</p> <p>10 your lawyers, or was it from someone else?</p> <p>11 MS. LIGHTFOOT: Same objection; assumes</p> <p>12 facts not in evidence.</p> <p>13 BY THE WITNESS:</p> <p>14 A. This is a map presented in our court case</p> <p>15 in response to the flawed Democrat gerrymandering</p> <p>16 map.</p> <p>17 BY MR. BRUCE:</p> <p>18 Q. That doesn't answer my question. I'll</p> <p>19 rephrase it. I can't make it more simple than I</p> <p>20 can, but I'll keep trying.</p> <p>21 Where did that map come from?</p> <p>22 A. This map --</p> <p>23 MS. LIGHTFOOT: Object to the form.</p> <p>24</p>
<p style="text-align: right;">Page 131</p> <p>1 lawyers or someone else? That's the first question.</p> <p>2 MS. LIGHTFOOT: Object to the form,</p> <p>3 foundation, mischaracterizes his testimony, and --</p> <p>4 MR. BRUCE: What --</p> <p>5 MS. LIGHTFOOT: Hold on, Mr. Bruce.</p> <p>6 It assumes facts not in evidence.</p> <p>7 MR. BRUCE: Okay. I don't understand your</p> <p>8 foundation objection. I don't understand your</p> <p>9 assuming facts not in evidence objection. Those</p> <p>10 are meaningless objections to that question.</p> <p>11 MS. LIGHTFOOT: Well, they're not.</p> <p>12 MR. BRUCE: Okay.</p> <p>13 MS. LIGHTFOOT: They're not.</p> <p>14 BY MR. BRUCE:</p> <p>15 Q. Okay. Sir --</p> <p>16 MS. LIGHTFOOT: They're not.</p> <p>17 BY MR. BRUCE:</p> <p>18 Q. -- if you look on the right-hand side --</p> <p>19 MS. LIGHTFOOT: The question is defective,</p> <p>20 and I've pointed out the reason for my basis.</p> <p>21 MR. BRUCE: Well, we're going to get into</p> <p>22 it.</p> <p>23 BY MR. BRUCE:</p> <p>24 Q. Sir, on the right-hand side there's a map</p>	<p style="text-align: right;">Page 133</p> <p>1 BY THE WITNESS:</p> <p>2 A. This map was filed in our court case and</p> <p>3 part of the injunction.</p> <p>4 BY MR. BRUCE:</p> <p>5 Q. Okay. I understand that it was filed as</p> <p>6 part of the injunction. That is not the question,</p> <p>7 respectfully, I'm asking. I'm not asking you where</p> <p>8 it was filed. I just want to be clear so that we</p> <p>9 don't have a problem --</p> <p>10 A. Well --</p> <p>11 Q. Excuse me. I'm trying to help you answer</p> <p>12 my question. I am not asking you where this map</p> <p>13 was filed. I'm not asking that question. I'm</p> <p>14 asking you where this map came from. Can you</p> <p>15 answer that question?</p> <p>16 A. I have -- I do not know.</p> <p>17 Q. Okay. As you sit here today, you don't</p> <p>18 know where -- the map that's entitled the Fair</p> <p>19 Congressional Map which is Exhibit 5 to your</p> <p>20 deposition, you don't know where that came from; is</p> <p>21 that true?</p> <p>22 MS. LIGHTFOOT: Object to the form,</p> <p>23 foundation, mischaracterizes his testimony.</p> <p>24</p>